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REMARKS

This Amendment is being submitted in response to the Non-Final Office Action mailed February 16, 2007. Claims 1 and 2 have been amended. New claims 15 and 16 have been added. No new matter has been added. Claims 1-16 remain pending in this application with claims 1 and 2 being the only independent claims. Reconsideration in view of the amendments and remarks presented herein is respectfully requested.

Claims 1-6, 8-11, 13 and 14 are rejected under 35 U.S.C. §102(b) as anticipated by Japanese Patent Publication JP 09-313531 (Nakazawa et al.). Claims 7 and 12 are rejected under 35 U.S.C. §103(b) as obvious over Nakazawa et al. in view of U.S. Patent Application Publication No. 2003/0040732 (Ishikawa).

Applicants respectfully traverse the prior art rejections for the reasons presented below.

Independent Claims 1 & 2

Claims 1 and 2, as amended, each call for a disposable absorbent article to have "liquid impervious flap parts" and "third leg part elastic bodies are disposed between the liquid impermeable flap parts and the liquid impermeable back face side sheet at both sides of said main absorbent article body part". Thus, the claims require (i) the flap to made of an impervious material and (ii) the third leg part elastic bodies be disposed between two impermeable layers (liquid impermeable flap parts and a liquid impermeable back face side sheet).

Nakazawa et al. discloses (Figure 3) third and fourth elastic members 20, 21, respectively, disposed on each side of absorbent 24. The cross-sectional view of Figure 3 clearly shows the third and fourth elastic members 20, 21 disposed between a top sheet of liquid permeability 25 and an impermeable outer surface member (sheathing member) 14, rather than between two impervious sheets. Accordingly, Nakazawa et al. fails to disclose or suggest a "liquid impervious flap part" and "third leg part elastic bodies" that are "disposed between the liquid impermeable flap parts and the liquid impermeable back face side sheet at both sides of said main absorbent article body part", as found in claims 1 and 2.

Claims 1 and 2 are further distinguishable in that they have been amended to state "the third leg part elastic bodies extend in a longitudinal direction beyond the points of intersection

with the first leg part elastic bodies and the second leg part elastic bodies at the respective sides of the main absorbent article body part.” Nakazawa et al. discloses (Figures 2 & 4; [¶ 0027]) that the ends of each of the third and fourth elastic members 20, 21, respectively, terminate at the intersections with the first and second elastic members 18, 19, respectively. Accordingly, Nakazawa et al. fails to disclose or suggest that “the third leg part elastic bodies extend in a longitudinal direction beyond the points of intersection with the first leg part elastic bodies and the second leg part elastic bodies at the respective sides of the main absorbent article body part” (emphasis added).

Dependent Claims 3 & 8

Claims 3 and 8 provide that “the third leg part elastic bodies, which are positioned at the flap parts of said main absorbent body part, have at least a portion thereof disposed along the central lateral axis X-X outward beyond the leg parts at the respective sides of the outer layer sheet” (emphasis added). To the contrary, in Figures 2 and 4 of Nakazawa et al. the third and fourth elastic members 20, 21, respectively, are disposed inward along the central lateral axis X-X relative the leg parts 13L, 13R at the respective sides of the outer layer sheet. No portion of third and fourth elastic members 20, 21, respectively, are disposed along the central lateral axis X-X outward beyond the leg parts 13L, 13R at the respective sides of the outer layer sheet, as called for in claims 3 and 8.

Dependent Claims 4 & 9

Claims 4 and 9 depend from independent claims 1 and 2, respectively. Therefore, Applicants submit that claims 4 and 9 are patentable over the prior art of record for at least the reasons provided above with respect to claims 1 and 2, respectively.

Dependent Claims 5 & 10

Claims 5 and 10 depend from independent claims 1 and 2, respectively. Therefore, Applicants submit that claims 5 and 10 are patentable over the prior art of record for at least the reasons provided above with respect to claims 1 and 2, respectively.

Dependent Claims 6 & 11

Dependent claims 6 and 11 provide "each of the first leg part elastic bodies and second leg part elastic bodies is arranged to be lower in tensile strength at the intermediate part, positioned in the direction of crossing said crotch part, than at the one end side and the other end side that are positioned along the leg parts at the respective sides".

In rejecting claims 6 and 11, the Examiner states "The disposable absorbent article according to Claim 1, wherein each of the first leg part elastic bodies and second leg part elastic bodies 19 is arranged to be lower in tensile strength at the intermediate part, positioned in the direction of crossing said crotch part, than at the one end side and the other end side that are positioned along the leg parts at the respective sides. The lower tensile strength is due to the presence of an increased amount of elastic at said intermediate part relative to the end sides positioned along said leg parts 13L, R." (See remarks with respect to rejection of claims 6 and 11 on pages 6 and 7 of the February 16, 2007 Office Action)(emphasis added)

Applicants respectfully traverse the Examiner rejection of claims 6 and 11 as being anticipated by Nakazawa et al. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). First, the Examiner has failed to cite to any passage in Nakazawa et al. that either discloses or suggests the presence of an increased amount of elastic at the intermediate part relative to the end sides positioned along the leg parts 13L, R. Furthermore, even if the prior art reference expressly taught such a limitation, there is no support for any relationship between the amount of elastic and its tensile strength. Tensile strength represents the force a material can bear without being torn apart. Nakazawa et al. is silent concerning the tensile strength of first and second elastic members. Accordingly, Applicant asserts that Nakazawa et al. does not read on or anticipate claims 6 and 11.

Dependent Claims 7 & 12

Claims 7 and 12 depend from independent claims 1 and 2, respectively. Therefore, Applicants submit that claims 7 and 12 are patentable over the prior art of record for at least the reasons provided above with respect to claims 1 and 2, respectively.

Dependent Claims 13 & 14

Dependent claims 13 and 14 specify that “the flap part is an impervious sheet”. The Examiner maintains that “The flap part is contiguous with the outer sheet 14, which is liquid impervious, thus the flap part is also an impervious sheet. (Fig. 4)” (See remarks by Examiner with respect to rejection of claims 13, 14 on page 7 of February 16, 2007 Office Action) Claims 1 and 2 (from which claims 13 and 14, respectively, depend) further require “third leg part elastic bodies are disposed between the liquid impermeable flap parts and the liquid impermeable back face side sheet at both sides of said main absorbent article body part”. Thus, the claimed “flap part” is not analogous to outer sheet 14 in Nakazawa et al. since, as shown in Figure 3, the third and fourth elastic members 20, 21, are disposed between a top sheet of liquid permeability 25 and an impermeable outer surface member (sheathing member) 14.

Dependent Claims 15 and 16

New dependent claims 15 and 16 are further distinguishable in that they provide “the third leg part elastic bodies extend in a longitudinal direction substantially the length of the main absorbent article body part”. Nakazawa et al. discloses (Figures 2 & 4; [¶ 0027]) that the ends of each of the third and fourth elastic members 20, 21, respectively, terminate at the intersections with the first and second elastic members 18, 19, respectively. Accordingly, Nakazawa et al. fails to disclose or suggest that “the third leg part elastic bodies extend in a longitudinal direction substantially the length of the main absorbent article body part”.

For the foregoing reasons applicants submit that independent claims 1-16 are patentable over the art of record. Applicants submit that the application is now in condition for allowance and passage to issuance is requested.

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CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 503462.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 503462.

Respectfully submitted,



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